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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,613	07/18/2000	Max Donath	U11.12-0137	9301

7590 10/06/2004

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EXAMINER

SHAPIRO, LEONID

ART UNIT	PAPER NUMBER
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2673

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/618,613

Applicant(s)

DONATH ET AL.

Examiner

Leonid Shapiro

Art Unit

2673

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: On page 4, 3rd paragraph of Response to final action, Applicant's stated that the display of Zambodjo et al. is not conformal to real world objects, because the display of Zambodjo et al. is perceived as being "suspended high above the ground" and disagreed with rejection based on comparison to the Specification. However, Applicant's argue limitations that are not in the claims. The Specification is not the measure of invention. Therefore, limitations contained therein can be read into the claims for the purpose of avoiding the prior art. In re Sporck, 35 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1968). Secondly, even by definition of "conformal" in the Specification on page 4, Lines 10-15: "...the term 'conformal' is used herein to indicate that the 'virtual image' generated by the present system projects images represented by the display in a fashion such that they are substantially aligned, and in proper perspective with, the actual images which would be seen by the driver" Zambodjo et al. images well qualified. Notice, that above mention definition does not specified where "virtual image" are located. Just mentioned alignment in proper perspective, as in Zambodjo et al. reference.

On page 7, 1st paragraph of Response to final action, Applicant's stated that the cited section of Endo et al. provides no discussion of conformably displaying the front vehicle on the navigational map. However, Applicant's cannot show non-obviousness by attacking references individually where, as here the rejection are based on combination of references. In re Keller, 208 USPQ 871 (CCPA 1981).

On the the same page, last paragraph, Applicant's stated that Examiner fails to identify any motivation or suggestio to combine the cited references, outside of Applicant's disclosure. However, the test for combining references is what the references as a whole would have suggested to one of ordinary skill in the art. In re Sheckler, 168 USPQ 716 (CCPA 1971). Endo et al. in Abstract suggested superimpose different vehicles and road.



VIJAY SHANKAR
PRIMARY EXAMINER